

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

**Accelerating Wireline Broadband
Deployment by Removing Barriers to
Infrastructure Investment**

WC Docket No. 17-84

REPLY COMMENTS OF

ITTA – THE VOICE OF AMERICA’S BROADBAND PROVIDERS

ITTA – The Voice of America’s Broadband Providers (ITTA) hereby submits its reply to comments filed in response to Section V.H. of the Commission’s Further Notice of Proposed Rulemaking in the above-captioned proceeding.¹ In that section, the *FNPRM* seeks comment on ITTA’s proposal, from its comments on the *Wireline Infrastructure Notice*,² that the Commission eliminate the outreach requirements adopted in the *2016 Technology Transitions Order* with respect to discontinuation of legacy retail services.³ ITTA urges the Commission to adopt its proposal.

In its comments on the *Wireline Infrastructure Notice*, ITTA advocated that the Commission eliminate the unduly burdensome and prescriptive consumer education and outreach dictates adopted in the *2016 Technology Transitions Order*, as there is no need for such dictates.

¹ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 32 FCC Rcd 11128 (2017) (*Report and Order and/or FNPRM*).

² See ITTA Comments, WC Docket No. 17-84 (June 15, 2017) (ITTA 2017 Comments); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, 32 FCC Rcd 3266 (2017) (*Wireline Infrastructure Notice*).

³ See *FNPRM*, 32 FCC Rcd at 11194, paras. 176-77; *Technology Transitions et al.*, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283, 8348-52, paras. 179-86 (2016) (*2016 Technology Transitions Order*).

The discontinuance notice process would already entail provision of notice to affected customers and other stakeholders with adequate information of what is to occur and what steps they may need to take.⁴ Furthermore, marketplace forces would continue to provide carriers with incentives to communicate with customers in connection with technology transitions when customers are impacted by such changes.⁵ ITTA also argued that there was no evidence in the record that the decades-old discontinuance notice process had been in any way insufficient in ensuring that customers are aware that a carrier is discontinuing service and what it means for them.⁶

The majority of commenters on Section V.H. of the *FNPRM* support ITTA's proposal. CenturyLink finds the outreach requirements "unnecessary and counterproductive."⁷ As CenturyLink contends, carriers have learned through experience the most effective means of informing and educating their customers.⁸ ITTA agrees with CenturyLink that the Commission therefore should give carriers the flexibility to inform and educate their customers about an upcoming service discontinuance in a manner best suited to making customers aware of how the discontinuance will affect them and what, if anything, they need to do to prepare for it.⁹ As NTCA maintains, "it is in the full interest of providers to ensure that their customers have a sufficient understanding of their service offerings."¹⁰ Similarly, the Commission observed in the

⁴ See 47 CFR § 63.71(a)(1)-(4), (6)-(7); see also Verizon Comments, WC Docket No. 17-84, at 12 n.45 (Jan. 17, 2018) (Verizon Comments).

⁵ ITTA 2017 Comments at 21; see *FNPRM*, 32 FCC Rcd at 11194, para. 177; CenturyLink Comments, WC Docket No. 17-84, at 19 (Jan. 17, 2018) (CenturyLink Comments).

⁶ ITTA 2017 Comments at 21.

⁷ CenturyLink Comments at 19.

⁸ See *id.*; see also ADTRAN Comments, WC Docket No. 17-84, at 7 (Jan. 17, 2018) (ADTRAN Comments).

⁹ CenturyLink Comments at 19-20.

¹⁰ NTCA Comments, WC Docket No. 17-84, at 9 (Jan. 17, 2018) (NTCA Comments). "This understanding includes consideration of any differences between the eliminated and the new services." *Id.*

Report and Order, in the context of reducing the scope of copper retirement notice requirements, that incumbent local exchange carriers (ILECs) “have strong incentives to work closely with their retail customers in order to retain their business given the competition they face” from other intra- and intermodal providers.¹¹ The same reasoning applies with respect to discontinuances.¹²

As NTCA emphasizes, the outreach requirements suffer from being overly prescriptive. NTCA elaborates upon just some of the ways that they are unduly burdensome.¹³ ITTA also concurs with ADTRAN’s conclusion that there are no countervailing benefits to justify the unnecessary costs associated with the Commission-specified outreach obligations.¹⁴

The two substantive comments in opposition to eliminating the outreach requirements raise the specter of doom and gloom if the rules are eliminated, but do not demonstrate any actual harms for the requirements to redress.¹⁵ To begin with, as Verizon accurately points out,¹⁶ the outreach requirements have yet to become effective. Over one-and-a-half years have elapsed

¹¹ *Report and Order*, 32 FCC Rcd at 11147, para. 45. See ADTRAN Comments at 7; Verizon Comments at 11; AT&T Comments, WC Docket No. 17-84, at 8 (Jan. 17, 2018).

¹² In fact, in the *2016 Technology Transitions Order*, the Commission stated: “We expect applicants already have strong business incentives to answer customers’ questions in a competent and timely manner.” 31 FCC Rcd at 8352, para. 184. It is mystifying why the Commission nevertheless proceeded to heap on outreach requirements. In any event, the Commission now can and should course correct by eliminating these requirements.

¹³ See NTCA Comments at 9-10.

¹⁴ See ADTRAN Comments at 7.

¹⁵ See Public Knowledge and Center for Rural Strategies Comments, WC Docket No. 17-84, at 6-7 (Jan. 17, 2018) (PK Comments); Communications Workers of America Comments, WC Docket No. 17-84, at 3-5 (Jan. 17, 2018) (CWA Comments). The Greenlining Institute filed general comments urging the Commission to “exercise caution and put consumers first” with regard to various of the *FNPRM*’s proposals, including elimination of the outreach requirements. Greenlining Institute Comments, WC Docket No. 17-84, at 1 (Jan. 17, 2018).

¹⁶ See Verizon Comments at 12 n.45.

since these rules were adopted, and neither PK nor CWA produces one example of harm from insufficient notice of a discontinuance under the still-applicable pre-existing rules.¹⁷

Moreover, neither ITTA nor any other commenter in favor of eliminating the outreach requirements is advocating for discontinuances to occur without proper notice to affected consumers. Rather, each primarily objects to the additional, overly-prescriptive dictates for how such notice is to be presented. Thus, concerns that consumers will not “receive the information they need to understand how they would be impacted by the discontinuance”¹⁸ are exaggerated and unfounded.

ITTA also wholly disputes CWA’s characterization of the outreach rules as providing a “flexible blueprint” that is “not overly burdensome” for carriers to follow.¹⁹ Notwithstanding the Commission’s claim that with its outreach and education requirements it wished “to establish guidelines, not impose an unduly rigid mandate that forecloses flexibility,”²⁰ it then followed up with at least seven references to what carriers discontinuing a legacy retail service “must” or are “required” to do or say, covering a minimum of 14 new obligations.²¹ The Commission then concluded: “we do not find these requirements to be overly burdensome as much of the

¹⁷ PK invokes the *2015 Technology Transitions Order* for examples of ILECs having migrated their customers from copper networks without adequate notice. See PK Comments at 7 (citing *Technology Transitions et al.*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372, 9395-96, para. 39 (2015) (*2015 Technology Transitions Order*)). As PK recognizes, however, these incidents occurred in the context of copper retirements, not discontinuances of legacy retail services under the Commission’s rules. The record of the *2015 Technology Transitions Order* also reflected myriad methods of ILECs working with their customers in connection with copper retirements. See *id.* at 9396-97, para. 40 & n.162. And, notably, the Commission recently eliminated the changes made to the copper retirement rules in the *2015 Technology Transitions Order*, including bolstered notice requirements, finding that reinstating the prior rules will “address[] parties’ needs for adequate information and consumer protection.” *Report and Order*, 32 FCC Rcd at 11146, para. 41.

¹⁸ PK Comments at 6.

¹⁹ CWA Comments at 4.

²⁰ *2016 Technology Transitions Order*, 31 FCC Rcd at 8349, para. 181.

²¹ *Id.* at 8350-52, paras. 181-82, 184-85.

information we are requiring is similar to the information required through copper retirement notices under the rules adopted in the [2015 *Technology Transitions Order*].”²² However, the Commission eliminated these same copper retirement notice rules a few months ago, finding that doing so “will ease the regulatory burdens on incumbent LECs in transitioning to next-generation networks, affording them greater flexibility and eliminating the delays and additional costs imposed by the [copper retirement notice rules’] rigid requirements.”²³ It thus follows that eliminating the outreach requirements similarly will alleviate burdens and facilitate the transition to next-generation networks.²⁴

Finally, in adopting the outreach requirements, the Commission emphasized that state commissions and Tribal governments may play an important role in promoting consumer education around the discontinuance of legacy voice services.²⁵ Indeed, the Commission recently found that “ States that wish to do so are well positioned to engage in consumer education and outreach efforts.”²⁶ While ITTA believes that the current discontinuance notice rules suffice for consumer awareness, states remain free to help promote consumer education surrounding discontinuances where they deem it necessary.

²² *Id.* at 8352, para. 186.

²³ *Report and Order and FNPRM*, 32 FCC Rcd at 11146, para. 41.

²⁴ *See id.* at 11194, para. 177 (seeking comment on whether eliminating the outreach requirements will help speed the ongoing technology transition to next-generation IP-based services and networks).

²⁵ *See 2016 Technology Transitions Order*, 31 FCC Rcd at 8351, para. 183.

²⁶ *Report and Order*, 32 FCC Rcd at 11150, para. 50 (citing, *inter alia*, Ohio PUC Comments, WC Docket No. 17-84, at 4-5 (June 14, 2017) (Ohio PUC Comments)). While the Commission’s finding was enunciated in the context of a discussion regarding copper retirement notice processes, the Ohio PUC Comments describe a collaborative process “tasked with evaluating and promoting effective customer communication and understanding regarding technology transition issues” overall, not limited to technology transitions involving copper retirements. *See id.* at n.187 (quoting Ohio PUC Comments at 4-5).

For all of the foregoing reasons, ITTA urges the Commission to heed ITTA's call, supported by the majority of commenters on this issue, to eliminate the outreach requirements adopted in the *2016 Technology Transitions Order*. The current discontinuance notice process already entails adequate notice to affected customers and other stakeholders of what is to occur and what steps they may need to take, and no evidence has been presented in the record that this longstanding process has been in any way insufficient in ensuring that customers are aware that a carrier is discontinuing service and what it means for them. Against this backdrop, the outreach requirements are unduly burdensome and overly prescriptive.

For the same reasons the Commission recently determined that removing rigid copper retirement notice rules will facilitate the transition to next-generation networks, so too will eliminating the outreach requirements. The Commission should enable carriers to continue to leverage their experience with their customers to determine the most effective means of informing and educating their customers about how a discontinuance will affect them and what, if anything, they need to do to prepare for it.

Respectfully submitted,

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February 16, 2018